

# Senate File 90 - Introduced

SENATE FILE 90

BY JOCHUM

## A BILL FOR

1 An Act relating to the automatic mailing of ballots and  
2 including applicability provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 72, Code 2019, is  
2 amended by striking the subsection.

3 Sec. 2. Section 39A.4, subsection 1, paragraph c,  
4 subparagraphs (11) and (12), Code 2019, are amended to read as  
5 follows:

6 (11) Returning a voted absentee ballot, by mail, to a ballot  
7 drop box, or in person, to the commissioner's office and the  
8 person returning the ballot is not the voter, the voter's  
9 designee, or a special precinct election official designated  
10 pursuant to section 53.22, subsection 2.

11 (12) Making a false or untrue statement reporting that  
12 a voted absentee ballot was returned to the commissioner's  
13 office, by mail or in person, or to a ballot drop box, by a  
14 person other than the voter, the voter's designee, or a special  
15 precinct election official designated pursuant to section  
16 53.22, subsection 2.

17 Sec. 3. Section 53.1, Code 2019, is amended to read as  
18 follows:

19 **53.1 Right to vote — conditions power of attorney.**

20 ~~1. Any registered voter may, subject to the provisions of~~  
21 ~~this chapter, vote at any election:~~

22 ~~a. When the voter expects to be absent on election day~~  
23 ~~during the time the polls are open from the precinct in which~~  
24 ~~the voter is a registered voter.~~

25 ~~b. When, through illness or physical disability, the voter~~  
26 ~~expects to be prevented from going to the polls and voting on~~  
27 ~~election day.~~

28 ~~c. When the voter expects to be unable to go to the polls~~  
29 ~~and vote on election day.~~

30 ~~2. A person who has been designated to have power of~~  
31 ~~attorney by a registered voter does not have authority~~  
32 ~~to request or to cast an absentee ballot on behalf of the~~  
33 ~~registered voter.~~

34 Sec. 4. Section 53.7, Code 2019, is amended to read as  
35 follows:

1     **53.7 Solicitation by public employees.**

2     1. It shall be unlawful for any employee of the state or any  
3 employee of a political subdivision ~~to solicit any application~~  
4 ~~or request for application for an absentee ballot, or to take~~  
5 an affidavit in connection with any absentee ballot while the  
6 employee is on the employer's premises or otherwise in the  
7 course of employment. However, any such employee may take such  
8 affidavit in connection with an absentee ballot which is cast  
9 by the registered voter in person in the office where such  
10 employee is employed in accordance with [section 53.10](#) or [53.11](#).  
11 This subsection shall not apply to any elected official.

12     2. It is unlawful for any public officer or employee,  
13 or any person acting under color of a public officer or  
14 employee, to knowingly require a public employee ~~to solicit an~~  
15 ~~application or request an application for an absentee ballot,~~  
16 ~~or to knowingly require an employee to take an affidavit or~~  
17 request for an affidavit in connection with an absentee ballot  
18 application.

19     Sec. 5. Section 53.8, Code 2019, is amended to read as  
20 follows:

21     **53.8 Ballot mailed.**

22     1. *a.* ~~Upon receipt of an application for an absentee ballot~~  
23 ~~and immediately after the absentee ballots are printed, but~~  
24 ~~not~~ Not more than twenty-nine days before the election, the  
25 commissioner shall mail an absentee ballot to the applicant  
26 ~~within twenty-four hours~~ each registered voter, except as  
27 otherwise provided in [subsection 3](#). The absentee ballot  
28 shall be sent to the registered voter by one of the following  
29 methods:

30     (1) The absentee ballot shall be enclosed in an unsealed  
31 envelope marked with a serial number and affidavit. The  
32 absentee ballot and affidavit envelope shall be enclosed in  
33 or with an unsealed return envelope marked postage paid which  
34 bears the same serial number as the affidavit envelope. The  
35 absentee ballot, affidavit envelope, and return envelope shall

1 be enclosed in a third envelope to be sent to the registered  
2 voter. If the ballot cannot be folded so that all of the votes  
3 cast on the ballot will be hidden, the commissioner shall also  
4 enclose a secrecy envelope with the absentee ballot.

5 (2) The absentee ballot shall be enclosed in an unsealed  
6 return envelope marked with a serial number and affidavit  
7 and marked postage paid. The absentee ballot and return  
8 envelope shall be enclosed in a second envelope to be sent  
9 to the registered voter. If the ballot cannot be folded so  
10 that all of the votes cast on the ballot will be hidden, the  
11 commissioner shall also enclose a secrecy envelope with the  
12 absentee ballot.

13 b. The affidavit shall be marked on the appropriate envelope  
14 in a form prescribed by the state commissioner of elections.

15 c. For envelopes mailed at any election other than the  
16 primary election, the commissioner shall not mark any envelope  
17 with any information related to the party affiliation of the  
18 ~~applicant~~ registered voter.

19 2. ~~a.~~ The commissioner shall enclose with the absentee  
20 ballot a statement informing the ~~applicant~~ registered  
21 voter that the sealed return envelope may be mailed to the  
22 commissioner by the registered voter or the voter's designee,  
23 may be returned to a drop box established by the commissioner  
24 pursuant to section 53.17, subsection 1, by the registered  
25 voter or the voter's designee, or may be personally delivered  
26 to the commissioner's office by the registered voter or the  
27 voter's designee. The statement shall also inform the voter  
28 that the voter may request that the voter's designee complete  
29 a receipt when retrieving the ballot from the voter. A blank  
30 receipt shall be enclosed with the absentee ballot.

31 ~~b. If an application is received so late that it is unlikely~~  
32 ~~that the absentee ballot can be returned in time to be counted~~  
33 ~~on election day, the commissioner shall enclose with the~~  
34 ~~absentee ballot a statement to that effect.~~

35 3. a. When an ~~application for an~~ absentee ballot is

1 ~~received~~ mailed by the commissioner of any county ~~from~~ to a  
 2 registered voter who is a patient in a hospital in that county,  
 3 a tenant of an assisted living program in that county as shown  
 4 by the list of certifications provided the commissioner under  
 5 section 231C.21, or a resident of any facility in that county  
 6 shown to be a health care facility by the list of licenses  
 7 provided the commissioner under section 135C.29, the absentee  
 8 ballot shall be delivered to the voter and returned to the  
 9 commissioner in the manner prescribed by section 53.22. For  
 10 purposes of this paragraph, "*assisted living program*" means a  
 11 program certified pursuant to section 231C.3 that meets the  
 12 standards for a dementia-specific assisted living program,  
 13 as established by rule by the department of inspections and  
 14 appeals.

15 ~~b. (1) If the application is received more than five~~  
 16 ~~days before the ballots are printed and the commissioner has~~  
 17 ~~elected to have the ballots personally delivered during the~~  
 18 ~~ten-day period after the ballots are printed, the commissioner~~  
 19 ~~shall mail to the applicant within twenty-four hours a letter~~  
 20 ~~in substantially the following form: The state commissioner~~  
 21 ~~shall adopt rules regarding the delivery and return of absentee~~  
 22 ~~ballots pursuant to this subsection.~~

23 ~~Your application for an absentee ballot for the election~~  
 24 ~~to be held on ..... has been received. This ballot will~~  
 25 ~~be personally delivered to you by a bipartisan team sometime~~  
 26 ~~during the ten days after the ballots are printed. If you will~~  
 27 ~~not be at the address from which your application was sent~~  
 28 ~~during any or all of the ten-day period immediately following~~  
 29 ~~the printing of the ballots, the ballot will be personally~~  
 30 ~~delivered to you sometime during the fourteen days preceding~~  
 31 ~~the election. If you will not be at the address from which~~  
 32 ~~your application was sent during either of these time periods,~~  
 33 ~~contact this office and arrangements will be made to have your~~  
 34 ~~absentee ballot delivered at a time when you will be present at~~  
 35 ~~that address.~~

1     ~~(2) If the application is received more than fourteen~~  
2 ~~calendar days before the election and the commissioner has not~~  
3 ~~elected to mail absentee ballots to applicants as provided~~  
4 ~~under [section 53.22, subsection 4](#), and has not elected to have~~  
5 ~~the absentee ballots personally delivered during the ten-day~~  
6 ~~period after the ballots are printed, the commissioner shall~~  
7 ~~mail to the applicant within twenty-four hours a letter in~~  
8 ~~substantially the following form:~~

9     ~~Your application for an absentee ballot for the election~~  
10 ~~to be held on ..... has been received. This ballot will~~  
11 ~~be personally delivered to you by a bipartisan team sometime~~  
12 ~~during the fourteen days preceding the election. If you will~~  
13 ~~not be at the address from which your application was sent~~  
14 ~~during any or all of the fourteen-day period immediately~~  
15 ~~preceding the election, contact this office and arrangements~~  
16 ~~will be made to have your absentee ballot delivered at a time~~  
17 ~~when you will be present at that address.~~

18     ~~c. Nothing in [this subsection](#) nor in [section 53.22](#)~~  
19 ~~shall be construed to prohibit a registered voter who is a~~  
20 ~~hospital patient or resident of a health care facility, or who~~  
21 ~~anticipates entering a hospital or health care facility before~~  
22 ~~the date of a forthcoming election, from casting an absentee~~  
23 ~~ballot in the manner prescribed by [section 53.10](#) or [53.11](#).~~

24     ~~Sec. 6. Section 53.10, subsection 2, Code 2019, is amended~~  
25 ~~to read as follows:~~

26     ~~2. a. Each person who wishes to vote by absentee ballot~~  
27 ~~at the commissioner's office shall first sign an application~~  
28 ~~for a ballot including the following information: name,~~  
29 ~~current address, voter verification number, and the election~~  
30 ~~for which the ballot is requested. The person may report a~~  
31 ~~change of address or other information on the person's voter~~  
32 ~~registration record at that time. The registered voter shall~~  
33 ~~immediately mark the ballot; enclose the ballot in a secrecy~~  
34 ~~envelope, if necessary, and seal it in the envelope marked~~  
35 ~~with the affidavit; subscribe to the affidavit on the reverse~~

1 side of the envelope; and return the absentee ballot to the  
2 commissioner. The commissioner shall record the numbers  
3 appearing on the application and affidavit envelope along with  
4 the name of the registered voter.

5 ~~b. For purposes of this subsection, "voter verification~~  
6 ~~number" means the registered voter's driver's license number~~  
7 ~~or nonoperator's identification card number assigned to the~~  
8 ~~voter by the department of transportation or the registered~~  
9 ~~voter's identification number assigned to the voter by the~~  
10 ~~state commissioner pursuant to section 47.7, subsection 2.~~

11 Sec. 7. Section 53.12, Code 2019, is amended to read as  
12 follows:

13 **53.12 Duty of commissioner.**

14 The commissioner shall enclose the absentee ballot in  
15 an unsealed envelope, to be furnished by the commissioner,  
16 which envelope shall bear upon its face the words "county  
17 commissioner of elections", the address of the commissioner's  
18 office, and ~~the same~~ a serial number appearing on the unsealed  
19 envelope shall be affixed to the application.

20 Sec. 8. Section 53.17, subsection 1, Code 2019, is amended  
21 by adding the following new paragraph:

22 NEW PARAGRAPH. c. The sealed return envelope may be  
23 delivered by the registered voter, by the voter's designee, or  
24 by the special precinct election officials designated pursuant  
25 to section 53.22, subsection 2, to a drop box established by  
26 the commissioner no later than the time the polls are closed on  
27 election day. However, if delivered by the voter's designee,  
28 the envelope shall be delivered within seventy-two hours of  
29 retrieving it from the voter or before the closing of the polls  
30 on election day, whichever is earlier. The state commissioner  
31 shall adopt rules regarding the security of drop boxes. This  
32 paragraph does not require a commissioner to establish a drop  
33 box.

34 Sec. 9. Section 53.17, subsection 4, paragraph f, Code 2019,  
35 is amended to read as follows:

1     *f.* A statement that the completed absentee ballot will be  
2 delivered to the commissioner's office or a drop box within  
3 seventy-two hours of retrieving it from the voter or before the  
4 closing of the polls on election day, whichever is earlier,  
5 or that the completed absentee ballot will be mailed to the  
6 commissioner within seventy-two hours of retrieving it from  
7 the voter or within time to be postmarked or, if applicable,  
8 to have the intelligent mail barcode traced to a date of entry  
9 into the federal mail system not later than the day before the  
10 election, whichever is earlier.

11     Sec. 10. Section 53.18, subsection 3, Code 2019, is amended  
12 to read as follows:

13     3. If the affidavit envelope or the return envelope marked  
14 with the affidavit contains a defect that would cause the  
15 absentee ballot to be rejected by the absentee and special  
16 voters precinct board, the commissioner shall immediately  
17 notify the voter of that fact and that the voter's absentee  
18 ballot shall not be counted unless the voter requests and  
19 returns a replacement ballot in the time permitted under  
20 section 53.17, subsection 2. For the purposes of *this section*,  
21 a return envelope marked with the affidavit shall be considered  
22 to contain a defect if it appears to the commissioner that  
23 the signature on the envelope has been signed by someone  
24 other than the registered voter, in comparing the signature  
25 on the envelope to the signature on record of the registered  
26 voter named on the envelope. A signature or marking made  
27 in accordance with *section 39.3, subsection 17*, shall not  
28 be considered a defect for purposes of *this section*. The  
29 voter may request a replacement ballot in person, in writing,  
30 or over the telephone. The same serial number that was  
31 assigned to the records of the original absentee ballot  
32 ~~application~~ shall be used on the envelope and records of the  
33 replacement ballot. The envelope marked with the affidavit and  
34 containing the completed replacement ballot shall be marked  
35 "Replacement ballot". The envelope marked with the affidavit



1 and containing the original ballot shall be marked "Defective"  
2 and the replacement ballot shall be attached to such envelope  
3 containing the original ballot and shall be stored in a secure  
4 place until they are delivered to the absentee and special  
5 voters precinct board, notwithstanding [sections 53.26](#) and  
6 [53.27](#).

7 Sec. 11. Section 53.19, subsection 1, Code 2019, is amended  
8 to read as follows:

9 1. The commissioner shall maintain a list of the absentee  
10 ballots provided to registered voters, the serial number  
11 appearing on the unsealed envelope, ~~the date the application~~  
12 ~~for the absentee ballot was received,~~ and the date the absentee  
13 ballot was sent to the registered voter ~~requesting the absentee~~  
14 ~~ballot~~.

15 Sec. 12. Section 53.19, subsection 3, paragraph b, Code  
16 2019, is amended to read as follows:

17 b. A registered voter who ~~has requested an absentee ballot~~  
18 ~~by mail but~~ for any reason has not received it an absentee  
19 ballot by mail or who has not brought the ballot to the polls  
20 may appear at the voter's precinct polling place on election  
21 day and, after the precinct election officials confirm the  
22 commissioner has not received the voter's absentee ballot, the  
23 voter shall be permitted to vote in person at the polls. If  
24 the precinct election officials are unable to confirm whether  
25 the commissioner has received the voter's absentee ballot, the  
26 voter shall cast a ballot in accordance with [section 49.81](#).

27 Sec. 13. Section 53.21, subsection 1, Code 2019, is amended  
28 to read as follows:

29 1. A voter ~~who has requested an absentee ballot~~ may obtain  
30 a replacement absentee ballot if the voter declares that the  
31 original ballot was lost or did not arrive. The commissioner  
32 upon receipt of a written or oral request for a replacement  
33 ballot shall provide a duplicate ballot. The same serial  
34 number that was assigned to the records of the original  
35 absentee ballot ~~request~~ shall be used on the envelopes and

1 records of the replacement ballot.

2 Sec. 14. Section 53.21, subsection 2, paragraph a, Code  
3 2019, is amended to read as follows:

4 a. The commissioner shall include with the replacement  
5 ballot two copies of a statement in substantially the following  
6 form:

7 ~~The~~ My absentee ballot ~~which I requested on ..... (date)~~  
8 has been lost or was never received. If I find this absentee  
9 ballot I will return it, unvoted, to the commissioner.

10 .....

11 (Signature of voter)

12 .....

13 (Date)

14 Sec. 15. Section 53.22, subsection 2, paragraph a,  
15 subparagraph (1), Code 2019, is amended to read as follows:

16 (1) A registered voter ~~who has applied for an absentee~~  
17 ~~ballot, in a manner other than that prescribed by section 53.10~~  
18 ~~or 53.11,~~ and who is a resident, tenant, or patient in a health  
19 care facility, assisted living program, or hospital ~~located in~~  
20 ~~the county to which the application has been submitted~~ shall  
21 be delivered the appropriate absentee ballot by two special  
22 precinct election officers, one of whom shall be a member of  
23 each of the political parties referred to in [section 49.13](#), who  
24 shall be appointed by the commissioner from the election board  
25 panel for the special precinct established by [section 53.20](#).  
26 The special precinct election officers shall be sworn in the  
27 manner provided by [section 49.75](#) for election board members,  
28 shall receive compensation as provided in [section 49.20](#),  
29 and shall perform their duties during the ten calendar days  
30 after the ballots are printed if the commissioner so elects,  
31 during the fourteen calendar days preceding the election, and  
32 on election day if all ballots requested under section 53.8,  
33 subsection 3, have not previously been delivered and returned.

34 Sec. 16. Section 53.22, subsection 2, paragraphs b and c,  
35 Code 2019, are amended to read as follows:

1     ~~b. If an applicant under~~ a registered voter subject to this  
2 subsection notifies the commissioner that the ~~applicant voter~~  
3 will not be available at the health care facility, assisted  
4 living program, or hospital address at any time during the  
5 ten-day period after the ballots are printed, if applicable,  
6 or during the fourteen-day period immediately prior to the  
7 election, but will be available there at some other time prior  
8 to the election or on election day, the commissioner shall  
9 direct the two special precinct election officers to deliver  
10 the applicant's ballot at an appropriate time preceding the  
11 election or on election day. If a ~~person who so requested an~~  
12 ~~absentee ballot voter~~ has been dismissed from the health care  
13 facility or hospital, or is no longer a tenant of the assisted  
14 living program, the special precinct election officers may take  
15 the ballot to the voter if the voter is currently residing in  
16 the county.

17     c. The special precinct election officers shall travel  
18 together in the same vehicle and both shall be present when  
19 ~~an applicant~~ a voter casts an absentee ballot. If either  
20 or both of the special precinct election officers fail to  
21 appear at the time the duties set forth in [this section](#) are  
22 to be performed, the commissioner shall at once appoint some  
23 other person, giving preference to persons designated by  
24 the respective county chairpersons of the political parties  
25 described in [section 49.13](#), to carry out the requirements of  
26 this section. The persons authorized by [this subsection](#) to  
27 deliver an absentee ballot to ~~an applicant~~ a voter, and if  
28 requested, may assist the ~~applicant voter~~ in filling out the  
29 ballot as permitted by [section 49.90](#). After the voter has  
30 securely sealed the marked ballot in the envelope provided and  
31 has subscribed to the oath, the voted absentee ballots shall  
32 be deposited in a sealed container which shall be returned to  
33 the commissioner on the same day the ballots are voted. On  
34 election day the officers shall return the sealed container by  
35 the time the polls are closed.

1     Sec. 17. Section 53.22, subsections 3, 4, and 5, Code 2019,  
2 are amended to read as follows:

3     3. Any registered voter who becomes a patient, tenant, or  
4 resident of a hospital, assisted living program, or health  
5 care facility in the county where the voter is registered to  
6 vote within three days prior to the date of any election or on  
7 election day may request an absentee ballot during that period  
8 or on election day. ~~As an alternative to the application~~  
9 ~~procedure prescribed by [section 53.2](#), the~~ The registered  
10 voter may make the request directly to the officers who are  
11 delivering and returning absentee ballots under [this section](#).  
12 Alternatively, the request may be made by telephone to the  
13 office of the commissioner not later than four hours before  
14 the close of the polls. If the requester is found to be a  
15 registered voter of that county, these officers shall deliver  
16 the appropriate absentee ballot to the registered voter in the  
17 manner prescribed by [this section](#).

18     4. For any election except a primary or general election  
19 or a special election to fill a vacancy under [section 69.14](#),  
20 the commissioner may, as an alternative to [subsection 2](#), mail  
21 an absentee ballot to ~~an applicant~~ a registered voter under  
22 this section to be voted and returned to the commissioner in  
23 accordance with [this chapter](#). [This subsection](#) only applies  
24 to ~~applications for~~ absentee ballots ~~from~~ for a single health  
25 care facility, assisted living program, or hospital if there  
26 are no more than two applications from that facility, program,  
27 or hospital.

28     5. The commissioner shall mail an absentee ballot to a  
29 registered voter ~~who has applied for an absentee ballot and~~  
30 who is a patient, tenant, or resident of a hospital, assisted  
31 living program, or health care facility outside the county in  
32 which the voter is registered to vote.

33     Sec. 18. Section 53.39, subsection 1, Code 2019, is amended  
34 to read as follows:

35     1. ~~[Section 53.2](#) does not apply in the case of a qualified~~

1 ~~voter of the state of Iowa serving in the armed forces of the~~  
2 ~~United States. In any such case an application for ballot as~~  
3 ~~provided for in that section is not required and an~~ An absent  
4 voter's ballot shall be sent or made available to ~~any such~~  
5 a qualified voter of the state of Iowa serving in the armed  
6 forces of the United States upon a request as provided in this  
7 subchapter.

8 Sec. 19. Section 53.45, subsection 4, Code 2019, is amended  
9 to read as follows:

10 4. Notwithstanding the provisions of [section 53.49](#),  
11 an eligible elector who requests a special absentee ballot  
12 under [this section](#) may also make application for an absentee  
13 ~~ballot under [section 53.2](#)~~ or an armed forces absentee ballot  
14 under [section 53.40](#). If the regular absentee or armed forces  
15 absentee ballot is properly voted and returned, the special  
16 absentee ballot is void and the commissioner shall reject it in  
17 whole when special absentee ballots are canvassed.

18 Sec. 20. Section 53.49, Code 2019, is amended to read as  
19 follows:

20 **53.49 Applicable to armed forces and other citizens.**

21 The provisions of [this subchapter](#) as to absent voting shall  
22 apply only to absent voters in the armed forces of the United  
23 States as defined for the purpose of absentee voting in section  
24 53.37. The provisions of section 53.1 and sections 53.1 53.4  
25 through 53.34 shall apply to all other voters not members of  
26 the armed forces of the United States.

27 Sec. 21. REPEAL. Sections 53.2 and 53.3, Code 2019, are  
28 repealed.

29 Sec. 22. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
30 3, shall not apply to this Act.

31 Sec. 23. APPLICABILITY. This Act applies to all elections  
32 taking place on or after July 1, 2020.

33 EXPLANATION

34 The inclusion of this explanation does not constitute agreement with  
35 the explanation's substance by the members of the general assembly.

1     This bill relates to the mailing of absentee ballots.  
2     The bill requires county commissioners of elections to  
3     automatically mail absentee ballots to all registered voters.  
4     Current law requires registered voters to submit an application  
5     prior to receiving an absentee ballot. The bill also allows  
6     county commissioners to establish drop boxes at which voters  
7     or voters' designees may deposit absentee ballots. The bill  
8     requires the state commissioner of elections to adopt rules  
9     regarding security measures for absentee ballot drop boxes.  
10    The bill may include a state mandate as defined in Code  
11    section 25B.3. The bill makes inapplicable Code section 25B.2,  
12    subsection 3, which would relieve a political subdivision from  
13    complying with a state mandate if funding for the cost of  
14    the state mandate is not provided or specified. Therefore,  
15    political subdivisions are required to comply with any state  
16    mandate included in the bill.